

Facsimile Transmission to (703) 305-1013

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Morys et al.

Application No.: Unknown

Group Art Unit: Not assigned yet

Filed: February 11, 2003

Examiner: Unknown

For: SYSTEM AND METHOD OF  
DETERMINING MOTION TOOL  
PARAMETER IN BOREHOLE  
LOGGING

Attorney Docket No.: 7420-116-999

**PETITION UNDER 37 C.F.R. §§ 1.53(e) and 1.181(f)**Assistant Commissioner for Patents, Petitions Office  
Washington, D.C. 20231

Sir:

Applicants respectfully request that the above-identified patent application be treated as a continuation application rather than a continued prosecution application, as improperly indicated in one of the filing papers. It is further requested that the application be allowed to retain and perfect its claim to priority to the parent United States Patent Application No. 09/882,228.

**I. FACTS**

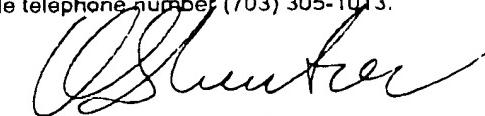
On February 11, 2003 applicants filed the above referenced application intended as a continuation application, claiming priority to the parent U. S. Patent Application No. 09/882,228. The '228 application issued as U. S. Patent No. 6,518,756 on the same day.

**CERTIFICATION OF FACSIMILE TRANSMISSION**

I hereby certify that this paper is being filed with the United States Patent and Trademark Office by facsimile transmission on February 25 2003 to facsimile telephone number (703) 305-1013.

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Ognjan V. Shentov (Reg. No. 38,051)

The application papers included a transmittal letter with the above referenced application properly requesting treatment of the accompanying specification, figures, and declaration (a copy from the intended parent application) as a continuation application claiming priority to the U. S. Patent Application No. 09/882,228. However, the filing papers also included a letter and a fee calculation sheet, which improperly requested treatment of the attached application as a Continued Prosecution Application (CPA).

As noted, applicants did not intend to file the present application as a CPA, and the submission of a CPA request was an unintentional error. In any event, it is respectfully submitted that treatment of the present application as a CPA is not possible under the requirements of 37 C.F.R. § 1.53(d) due to the payment of the issue and publication fees in the parent case.

The undersigned attorney for the applicants was informed of the error in a telephone call made by Ms. Theresa Okon from the U. S. Patent and Trademark Office on February 24, 2003. In subsequent discussions that day with Messrs Hien Phan and James Engel of the Patent Office applicants clarified their positions regarding the filing, and were advised to file the present petition in order to correct the unintentional error. Applicants wish to express their gratitude to the above-mentioned individuals at the Patent Office for their prompt, courteous and professional help in this matter.

**II. ALL FILING REQUIREMENTS FOR ENTITLEMENT  
TO THE FILING DATE WERE MET SINCE THE  
SPECIFICATION AND THE DRAWINGS WERE  
FILED ON FEBRUARY 24, 2003**

Applicants met all requirements for being entitled to the filing date since their filing included the specification, claims, figures, and a claim of priority correctly identifying the parent application. Therefore, only the improper filing of the request for continued prosecution application needs to be disregarded to correct the filing error.

As detailed above, the improper filing of the transmittal of request for continued prosecution application could not be acted upon in accordance with § 1.53(d) in any event since the issue fee had been paid.

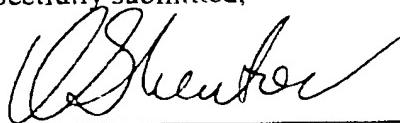
In view of all of the above, applicants respectfully request that the transmittal of a request for continued prosecution application in the original filing be disregarded, and the application be treated as a continuation application properly claiming priority from the United States Patent Application No. 09/882,228.

### **III. CONCLUSION**

It is respectfully submitted that the unintentional error in the filing of this application with two contradictory requests be corrected by disregarding the defective request for a continued prosecution application. Applicants respectfully request that this petition to treat the above referenced application as a continuation application be granted.

The fee for this submission pursuant to 37 C.F.R. § 1.17(h) is estimated to be **\$ 130.00**. Please charge the required fee to Pennie & Edmonds LLP Deposit Account No. 16-1150. A copy of this sheet is enclosed.

Respectfully submitted,



Date February 25, 2003

Ognjan Shentov (Reg. No.38,051)  
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February 25, 2003

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|---|----------------------------------|
| Recipient: Attention: Mr. James Engel   | Facsimile Number: (703) 305-1013 |
| Company: Office of Patent Legal Administration<br>United States Patent & Trademark Office | Attorney Ref. No.: 7420-116-999  |

Re: Petition Under 37 C.F.R. §§ 1.53(e) and  
1.181(f) to treat improperly filed request for  
continued prosecution application as a  
continuation application

**Message:**

Attached herewith are:

- (i) a petition (3 pages); and
- (ii) a copy of the last page authorizing payment of fees.

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Ognjan V. Shentov (Reg. No. 38,051)

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